

Committee on Resources

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TESTIMONY OF
DAVID A. BALTON
DEPUTY ASSISTANT SECRETARY OF STATE
FOR OCEANS AND FISHERIES
BEFORE THE
HOUSE COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS
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Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify today on international fisheries conservation issues and particularly to address issues of compliance. It has become increasingly apparent that, even as the international community has made enormous progress in the last decade towards coordinated management of the world's fishery resources, this progress is meaningless without compliance. We are seeing a growing incidence of fishing that does not respect international laws and regulations. Left unchecked, this illegal fishing can significantly diminish the benefits of the fisheries management regimes we have worked so hard to establish. And this type of activity is clearly unfair to those fishers who do follow the rules.

The Department of State has been focusing much of its attention on fighting illegal, unreported, and unregulated (IUU) fishing within regional fisheries management organizations, and through our National Plan of Action to prevent, deter, and eliminate this type of fishing. I will outline the efforts underway not just in the International Commission for the Conservation of Atlantic Tunas but also in other regional bodies, and will summarize some of the new tools contemplated by the U.S. National Plan of Action on IUU Fishing.

Compliance Agreement

In its letter of invitation, the Subcommittee asked about the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas ("the Compliance Agreement"). The Compliance Agreement entered into force on April 24, 2003, upon the deposit of the 25th instrument of acceptance with the UN Food and Agriculture Organization (FAO), which serves as depository for this treaty. Most of the major fishing States are party to this treaty, including the United States, Canada, Japan, Mexico, South Korea, Norway, and the European Community.

The Compliance Agreement is one of three global fisheries instruments of vital significance that have been adopted in the past decade, along with the UN Fish Stocks Agreement and the non-binding Code of Conduct for Responsible Fisheries. The United States played a pivotal role in the development of each of these instruments and has steadfastly urged all States to implement them.

Building on the general framework of the 1982 United Nations Convention on the Law of the Sea, the Compliance Agreement seeks to address the threat to international fisheries management posed by vessels that do not abide by agreed fishing rules. The Agreement contains three basic requirements:

- Each flag State must ensure that its vessels do not engage in any activity that undermines the effectiveness of international fishery conservation and management measures, whether or not the flag State is a member of the regional fishery organization that adopted such measures.

- No flag State shall allow any of its vessels to be used for fishing on the high seas unless the Flag State has specifically authorized it to do so.
- No flag State shall grant such authority to a vessel unless the Flag State is able to control the fishing activities of that vessel.

These three rules represent a new vision for high seas fisheries. To abide by these rules, flag States may no longer allow their fishing vessels to venture out onto the high seas the way that the early explorers ventured out beyond the frontiers of known society. Flag States must now actively oversee the high seas fishing operations of their vessels. They must decide on a case-by-case basis whether to authorize any vessel to fish on the high seas. Most importantly, they may not permit any vessel to fish on the high seas at all, unless they are able to prevent the vessel from undermining agreed conservation rules. The Agreement also seeks to increase the transparency of high seas fishing operations through the collection and dissemination of data. Parties must submit to FAO a wide range of information on each of their respective high seas fishing vessels.

If all States were parties to the FAO Compliance Agreement and other relevant international agreements, and if all States fully implemented their commitments under these instruments, there would be virtually no IUU fishing. Unfortunately, most of the flag States whose vessels are the greatest source of IUU fishing are not parties to these treaties. Encouraging these States to accede to these treaties and to implement effective control over their fishing vessels remains a top priority.

I do not want to give the impression, however, that only vessels flying the flags of non-parties to these agreements conduct IUU fishing. Even responsible fishing nations, such as the United States, do not achieve 100 percent compliance by their vessels. Ocean fishing, by its very nature, is difficult and costly to monitor. As fish stocks decline, the temptation to evade fishing rules grows. To deal with this daunting situation, the United States has been among the leaders of the international community in fashioning a comprehensive “toolbox” of measures to crack down on IUU fishing.

National Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing

As part of the implementation of the Code of Conduct for Responsible Fisheries, the FAO has adopted a number of International Plans of Action (IPOA) to address specific international fisheries problems. Most recently, the FAO undertook a concerted effort to develop a comprehensive “toolbox” of measures that States could take, both individually and collectively, to address the problems of IUU fishing. This effort culminated with the adoption in 2001 of the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

As its title suggests, the objective of the IPOA is to prevent, deter and eliminate IUU fishing. The principles to guide the pursuit of this objective include: (1) broad participation and coordination among States, as well as representatives from industry, fishing communities and non-governmental organizations; (2) the phasing-in of action to implement the IPOA on the earliest possible timetable; (3) the use of a comprehensive and integrated approach, so as to address all impacts of IUU fishing; (4) the maintenance of consistency with the conservation and long-term sustainable use of fish stocks and the protection of the environment; (5) transparency; and (6) non-discrimination in form or in fact against any State or its fishing vessels. States were charged to develop their own National Plans of Action to implement the IPOA.

The draft U.S. National Plan of Action was developed over the past two years by the Department of State, the Department of Commerce, and the U.S. Coast Guard, with input from the U.S. Trade Representative, the Customs Service, and others. It is undergoing a final review and should be released shortly.

It is organized along the same lines as the IPOA, including sections on All State Responsibilities, Flag State Responsibilities, Coastal State Measures, Port State Measures, Internationally Agreed Market State Measures, Measures to be Implemented Through Regional Fisheries Management Organizations and Special Requirements of Developing States. In addition to describing what the United States already does to fight IUU fishing, the National Plan of Action also lays out a wide range of recommendations for enhancing our abilities in this regard, such as changes to vessel registration rules, increased sanctions and penalties, tightened port controls, and broader outreach and capacity-building with other States.

ICCAT and other Regional Fisheries Management Organizations

My colleague from NOAA Fisheries has provided a thorough overview of the issues surrounding member compliance and illegal fishing within ICCAT. Although, with U.S. leadership, ICCAT has been at the forefront of developing innovative approaches towards controlling IUU fishing, it has become clear that ICCAT's existing tools need to be re-examined and updated to reflect the changing nature of IUU fishing. As part of that effort, the Department welcomes Congressional action to support U.S. efforts in ICCAT such as H.Con.Res. 268, which reiterates U.S. commitment towards ensuring compliance with ICCAT measures and offers specific guidance how we should support that commitment. We do note that some parts of H.Con.Res. 268 would change the standard of review for taking trade measures from looking at the actions of a number of vessels to the actions of a single vessel. While we agree the United States should take every possible action to fight IUU fishing, such a narrow standard may present significant implementation difficulties. We would be happy to discuss this issue with staff.

In addition to the work carried out within the FAO and ICCAT, the United States is working in other regional organizations to address the issue of IUU fishing. In particular, the Inter-American Tropical Tuna Commission (IATTC) has been working actively to address the issues of IUU fishing in the area regulated by the IATTC. In 2002, the IATTC adopted a resolution on purse seine fleet capacity. Among other things, the resolution specified that any purse seine vessel not included on the IATTC vessel register is not authorized to fish in the IATTC area. In the fall of 2002, a number of vessels from the western Pacific crossed over into the eastern Pacific to fish on a large biomass of yellowfin tuna that moved from the west into the eastern Pacific. The flag states of these vessels ordered the vessels to withdraw from the area once they were notified by the Director of the IATTC that the vessels were fishing in violation of the IATTC rules.

More recently, at its annual meeting in June 2002, the IATTC adopted measures, similar to the measures adopted in ICCAT, both for a catch certification scheme for bigeye tuna and for the development of a "positive list" of large-scale longline fishing vessels authorized to fish in the area regulated by the IATTC. The Commission also adopted a set of criteria for identifying "cooperating non-parties." Key to such designation is that vessels from such non-parties provide all relevant data about their operations and that they respect all rules, regulations and resolutions governing fishing for highly migratory species in the IATTC area.

Finally, at a special meeting of the IATTC scheduled for this fall, the IATTC will consider a U.S. proposal on steps to be taken by members and cooperating non-parties of the IATTC in cases of non-compliance with IATTC conservation and management measures.

The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) also provides a model of how a more comprehensive "negative" vessel list approach could work. Last year, CCAMLR adopted measures that establish lists of both member and non-member vessels of any kind that are diminishing the effectiveness of CCAMLR. Under the CCAMLR measures, the flag state of vessels on the lists may be identified and subject to further action, but the vessels themselves are also subject to restrictions on access to certain fisheries. We will be watching the implementation of these new measures carefully in the next year or two.

Thank you, Mr. Chairman, for this opportunity to discuss these issues. I would be happy to try to answer any questions from the Members of the Subcommittee.